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Draft Chesapeake Bay Total Maximum Daily Load

Comment On: EPA-R03-OW-2010-0736-0001
Clean Water Act Section 303(d): Notice for the Public Review of the Draft Total Maximum Daily Load (TMDL) for the Chesapeake Bay

Document: EPA-R03-OW-2010-0736-0139
Comment submitted by Charles E. Horn, Chairman, Headwaters Soil and Water Conservation District (SWCD)

Submitter Information

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General Comment

See attached file(s)

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Water Docket
Environmental Protection Agency
Mailcode: 28221T
1200 Pennsylvania Ave. N.W.
Washington, DC 20460

Docket I.D. Number EPA-R03-OW-2010-0736
Comments from the Headwaters Soil and Water Conservation District regarding the Chesapeake Bay TMDL

The Headwaters SWCD believes that we can achieve the remaining needed TMDL reductions through the state's present voluntary programs with consistent and adequate funding. Soil and Water Conservation Districts have built trusted relationships with landowners to implement these water quality best management practices. In 1992 only 0.13 miles of stream bank protection was installed in Augusta County. In 2010, 40.7 miles of stream bank protection was installed. This is a result of better awareness through education, flexible fencing programs, and greater acceptance by a young generation returning to manage the farm. We need to encourage this increased participation with adequate and reliable cost-share incentives and not regulation.

Virginia has made considerable progress reducing nitrogen, phosphorus and sediment as indicated by the Virginia Draft Allocations. The allocations show a reduction between 1985 and 2009 from 86.5 to

65.7 million lbs of nitrogen and from 11.31 to 7.14 million pounds of phosphorus.

Conservation Districts can provide EPA the accountability that they seek through Virginia's new tracking program and USDA's Progress Reporting System. As an example, we have the following to report for the Headwaters District in Augusta County from our 2010 program year:
Number of approved state applications 188
Number of state conservation contracts 200
BMPs included in contracts 563
Number of new federal contracts
CREP 33
EQIP 5
CBWI 43
Total Active Farm Bill Contracts as of 9/30/10 508
Stream banks Protected 40.7 miles
(Includes state and federal combined)
Riparian Buffers Installed 245 acres
Cropland converted to hay 367 acres
Cover crop 8216 acres
Nutrient Management Plans approved 39
The installation of these BMPS resulted in the following toward the Chesapeake Bay TMDL Goals:
Sediment reduced 31,200 lbs
Nitrogen reduced 168,863 lbs
Phosphorus reduced 33,634 lbs
Waste treated 6,794 tons

These reductions were achieved through landowners' voluntary participation in programs provided by Virginia's Agricultural Best Management Practice Cost-Share Program (VACS) and the USDA's Natural Resources Conservation Service and Farm Service Agency. In the Headwaters District, the various state and federal programs paid out approximately 2 million dollars of incentives in 2010. These programs cover between 50% and 90% of the cost of implementation. The farmer provides the remaining cost out-of-pocket to establish and then maintain the practices.

The agriculture community needs flexibility to meet guidelines. We endorse the continued use of the Phosphorus Index and 1 times P crop removal up to 65% base saturation. Proposed phosphorus limits rumored to be as low as 20% base saturation are ignoring the fact that erosion is still the leading factor in phosphorus loss. A conservation plan using field buffers and conservation tillage is the best way to reduce phosphorus loss. The phosphorus index brings together the conservation plan and the nutrient management plan. If the phosphorus is applied with the correct amount of carbon the soil will retain it. There is 1350 pounds of carbon/organic matter in a ton of litter. There is no organic matter in commercial fertilizer. Organic matter is the key to sustainability and creates the cation exchange points available to hold the phosphorus.

Economics is a major factor in the farmer's ability to implement these practices. The average turkey hen litter has a nutrient analysis of 43 pounds of nitrogen, 50 pounds of phosphorus, 53 pounds of potash, and 1350 pounds of carbon organic matter. Using today's cost (provided by the local Cooperative) to replace these nutrients; the nutrient value of that ton of litter is $85. If we assume no poultry farm needs additional phosphorus that ton of litter still contains $49 of nitrogen and potash per ton that would otherwise have to be replaced with commercial fertilizer. A poultry farmer can sell his or her litter for only $12 a ton. If the poultry farmer is prohibited from applying on-farm generated manure to their crops because of a base saturation cut off and must replace it with commercial fertilizer, it results in a net difference of $37 per ton for the producer. An average poultry house produces 300 tons per year. This is an added cost to the producer to raise his crops of $11,100 per poultry house. The poultry farmer cannot sell organic nutrients off the farm and replace it with commercial fertilizer with the proceeds of those organic nutrients. We need to explore a cash incentive to address this negative cash flow.

While the poultry producer has an option transporting dry litter, the local small dairy has no

alternative to selling the liquid manure. The cost of transport beyond two miles is greater than the nutrient value of the manure. If the dairyman is prohibited from applying on-farm generated manure to their crops they are out of business.

The examples above show that the cost of proposed regulations will have a detrimental effect on the viability of the agriculture sector. We propose that an economic impact study be conducted to evaluate the extent of this cost and some alternatives before moving forward.

To maintain our landowner relationships we believe the communication chain should be EPA to our established state agencies then to Districts for implementation. Penalties take away funds the farmer needs to make improvements. Money that would pay an enforcement or regulatory agency salary would be better spent for the implementation of voluntary best management practices through conservation districts. We feel a strengthened Ag Stewardship Program can address the few operations that continue to keep us from meeting our water quality goals.

In Summary:
1. Virginia has made great progress by adapting new technology and offering more options
2. The remaining TMDL reductions can be met with an adequately funded voluntary program
3. Conservation Districts can provide EPA the compliance assurance that they seek through Virginia's new tracking program and USDA's Progress Reporting System.
4. The Phosphorus index and P based crop removal application is critical
5. Improve flexibility for farmers implementing BMP's
6. To maintain trusted landowner relationships, EPA should use established state channels for communication
7. Adequate and reliable cost-share incentives, not regulation are preferred
8. Conduct economic impact study

Sincerely,

Charles E. Horn, Chairman

Attachments

EPA-R03-OW-2010-0736-0139.1: Comment attachment submitted by Charles E. Horn, Chairman, Headwaters Soil and Water Conservation District (SWCD)